

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>MCLEODUSA TELECOMMUNICATIONS SERVICES, INC.,</p> <p style="text-align:right">Complainant,</p> <p style="text-align:center">v.</p> <p>U S WEST COMMUNICATIONS, INC.,</p> <p style="text-align:right">Respondent.</p>	<p style="text-align:right">DOCKET NO. FCU-99-5</p>
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**ORDER DOCKETING COMPLAINT AND
ESTABLISHING PROCEDURAL SCHEDULE**

(Issued December 6, 1999)

On November 23, 1999, McLeodUSA Telecommunications Services, Inc. (McLeod), filed a complaint against U S WEST Communications, Inc. (U S West). McLeod's complaint was filed pursuant to IOWA CODE §§ 476.100 and 476.101 (1999), 47 U.S.C. § 251, and 47 C.F.R. § 51.603. McLeod alleges U S West is engaging in certain prohibited and anticompetitive acts in violation of those statutes and regulations, as well as the interconnection agreement between McLeod and U S West.

McLeod alleges Paragraph 9.11 of that interconnection agreement provides that, with respect to local resale, order entry, provision, and installation (among other items), U S West warrants it will provide service to McLeod "at least as expeditiously

as [U S West] provides for itself or for its own retail local service..." and that such services will be provided in a competitively neutral fashion.

McLeod further alleges that in one instance, McLeod was contacted by a customer regarding the installation of ten new telecommunications lines. McLeod states that it placed an order with U S West for the new lines and was subsequently informed that the order was a "held order" and the projected due date for installation was the third week of October 1999. The customer then contacted U S West directly and was informed that U S West could install its own service lines on October 4, 1999. The customer then placed its order with U S West and ultimately received service from U S West commencing on October 12, 1999. McLeod complains that the actions taken by U S West in promising service directly to the customer in significantly less time than U S West would provide the service to McLeod and in providing that service before the projected installation date conveyed to McLeod, violate paragraph 9.11 of the interconnection agreement and the state and federal regulatory requirements contained in IOWA CODE §§ 476.100 and 476.101, 47 U.S.C. § 251, and 47 C.F.R. § 51.603, including but not limited to IOWA CODE §§ 476.100(1), (2), (3), and (7), 476.101(7) and (9)"c;" 47 U.S.C. §§ 251(b)(1) and 251(c)(4); and 47 C.F.R. § 51.603(b).

McLeod asks that the Board docket the complaint as a formal proceeding, establish an expedited procedural schedule pursuant to IOWA CODE § 476.101(8), and determine that U S West has engaged in acts prohibited by statute, rule, and the interconnection agreement. McLeod further asks that the Board issue an order

requiring U S West to relinquish the customer's service contract to McLeod, prohibiting U S West from engaging in similar conduct in the future, and imposing civil penalties on U S West for knowingly and intentionally violating federal and state law and paragraph 9.11 of the interconnection agreement.

IOWA CODE § 476.101(8) provides, in relevant part, that when the Board initiates formal complaint proceedings in response to a written complaint regarding a local exchange carrier's compliance with sections 476.96 through 476.102, "[t]he board shall render a decision in the proceeding within ninety days after the date the written complaint was filed." Thus, the deadline for Board action in this docket is February 21, 2000, and the Board is docketing this matter and establishing a procedural schedule that will satisfy that requirement.

The Board also finds that the limited time available for this proceeding means that the 14-day period for responding to motions, set forth in IOWA ADMIN. CODE 199-7.7(11) (1999), is impractical in this proceeding. The Board will order that responses to all motions must be filed within five days of the date the motion is filed. In order to accommodate that abbreviated time frame, parties are directed to serve all motions by facsimile transfer or electronic mail, as well as by United States mail, on or before the date of filing.

IT IS THEREFORE ORDERED:

1. The Complaint filed on November 23, 1999, by McLeod Telecommunications Services, Inc., against U S WEST Communications, Inc., is docketed for investigation as Docket No. FCU-99-5.

2. The following procedural schedule is established for this proceeding:

a. McLeod and any intervenors shall file any prepared direct testimony, with supporting exhibits and workpapers, on or before December 17, 1999.

b. U S West shall file any rebuttal testimony, with supporting exhibits and workpapers, on or before December 29, 1999.

c. A hearing for the purpose of receiving testimony and cross-examination of all testimony will commence at 10 a.m. on January 12, 2000, in the Board's hearing room at 350 East Maple Street, Des Moines, Iowa. Parties shall appear at the hearing one-half hour prior to the time of hearing to mark exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at 515-281-5256 to request that appropriate arrangements be made.

d. Any party desiring to file a brief may do so on or before January 21, 2000.

3. In the absence of objection, all workpapers shall become a part of the evidentiary record at the time the related testimony and exhibits are entered in the record.

4. In the absence of objection, all data requests and responses referred to in oral testimony or cross-examination which have not previously been filed with the Board shall become a part of the evidentiary record. The party making

reference to the data request or response shall file an original and six copies at the earliest possible time.

5. In the absence of objection, if the Board calls for further evidence on any issue and that evidence is filed after the close of hearing, the evidentiary record shall be reopened and the evidence will become a part of the evidentiary record five days after filing. All evidence filed pursuant to this paragraph shall be filed no later than seven days after the close of hearing.

6. Pursuant to IOWA ADMIN. CODE 199-7.7(11), the deadline for filing responses to motions will be no later than five days from the date the motion is filed. All motions should be served on all other parties, and on all persons who have filed a petition to intervene that has not yet been ruled upon, by facsimile transfer or by electronic mail, as well as by United States mail.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Judi K. Cooper
Executive Secretary, Deputy

/s/ Diane Munns

Dated at Des Moines, Iowa, this 6th day of December, 1999.